

The NetChoice Coalition

Promoting Convenience, Choice, and Commerce on The Net

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Rep. Phil Barnhart, Co-Chair
Rep. Vicki Berger, Co-Chair
Oregon House of Representatives
Revenue Committee
900 Court St. NE
Salem, Oregon 97301

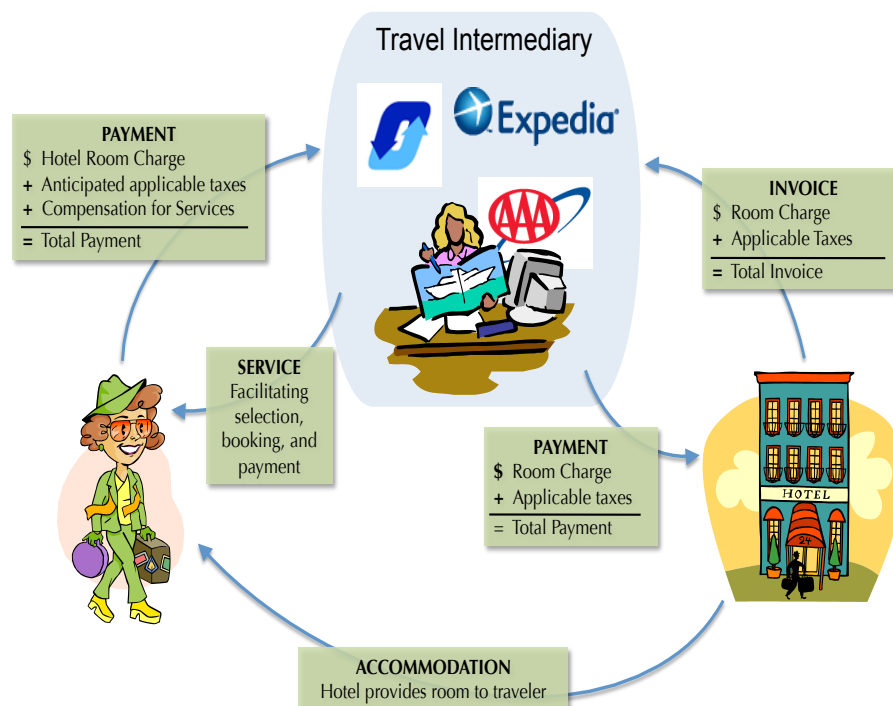
RE: **Opposition to Amendment to HB 4037 to Treat and Tax Travel Services the Same as Hotel Operators**

Dear Chairman Barnhart and Chairwoman Berger:

We encourage you to reject any amendment that imposes an unworkable new tax regime on services provided by Oregon's travel agents and online travel companies (travel intermediaries). The Senate's bill obscures the distinction between *hotel room charges* and *services* that travel agents provide when they research, compare, and book rooms for travelers. This obfuscation could harm unsuspecting Oregon businesses like wedding and convention planners, and create new taxes on Oregon's citizens.

Nearly All Travel Agents and Travelers Rely Upon Online Services To Research, Compare, and Book Reservations

In our work on this issue in states and at ALEC and NCSL, we've seen a real need for education about differences in business models, transaction terms, and tax regimes. To help meet that need, we created a chart (below) to show the flow of services and payments in a typical transaction where a traveler uses an agent or online travel company to research and book a hotel reservation.



As shown in the chart, travel agents and online travel companies are providing a service to travelers, showing comparisons of rates and amenities at multiple hotels competing for their travel dollars.

Clearly, this facilitation service is distinct from the room provided by the hotel where the traveler eventually stays. Treating a travel service provider the same as a hotel for tax purposes ignores the difference between a hotel room and a service.

The overwhelming majority of courts that have examined this issue concluded that online travel company service fees are not subject to hotel occupancy taxes. Moreover, any occupancy taxes due are already fully paid on the amount received by hotels when a traveler uses an agent or online travel company.

Travel Companies Already Collect And Remit Lodging Taxes Owed

The Senate's bill¹ requires travel companies to collect and remit lodging taxes. The good news is that travel intermediaries inside and outside of Oregon *already* collect and remit these lodging taxes.

For example, when a West Virginia tourist books a hotel room in Portland through a travel website, the website collects Oregon's one-percent lodging tax on the full amount paid to the Oregon hotel operator. Because Oregon is already receiving this tax revenue under existing Oregon laws, this aspect of the Senate's bill is unnecessary.

Impact of Treating and Taxing Travel Services the Same as Hotel Operators

Unnecessary, since travel intermediaries already collect and remit lodging taxes

Imposes new tax on Oregonians

Creates new tax collection requirements only on Oregon-travel services

Generates nominal tax revenue

A New Tax On Travel Service Fees Would Only Apply When Oregonians Book Travel, Not Out-of-State Tourists

The Senate's bill also imposes a tax on service fees that only impacts Oregonians and Oregon businesses. When a tourist uses a travel service, the service occurs at tourist's home, not at the travel destination. So the Senate's new tax would only apply to services provided to Oregon travelers. This is a new tax on Oregon citizens since the only taxable event in Oregon is when an Oregonian uses a service.

You should remember that if you accept the Senate's approach, you are increasing taxes only on Oregon's citizens and putting your travel services at a competitive disadvantage to out-of-state rivals.

Turning back to our West Virginia tourist example, West Virginia already taxes travel-booking services since they were provided to a West Virginia resident at their home. So, the Senate's new tax seems to create a double taxation of the same service used by this tourist. We suspect this form of double taxation is not what the Senate wanted to create, but unfortunately, this is a likely outcome if you accept the Senate's approach.

Minimal Revenue Generated

Every state, city, and county that has enacted a similar law failed to get the anticipated tax revenue. For example, when Texas considered a similar action, the Texas Legislative Budget Board found no increase in tax revenue from treating travel services the same as hotel occupancy.²

¹ For example, SB 1519 attempts to define a "transient lodging intermediary" as a "transient lodging tax collector."

² See Report from John S O'Brien, Director, Legislative Budget Board to Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means, IN RE: HB1454 by Murphy (Relating to the hotel occupancy tax on the price paid for a Hotel room.), As Introduced, Mar. 25, 2011.

So when you consider this tax, you must ask whether the minimal tax revenue is worth the harm to in-state businesses and the Oregon travel industry.

Help Oregon and Avoid Mixing Travel Services and Lodging Providers

By working to maintain the true distinction between travel service providers and hotel operators, you can help Oregon's travel and tourism industry focus on serving travelers and creating jobs – not on collecting nominal new taxes.

We appreciate your consideration of our views, and please let me know if I can provide further information.

Sincerely,

A handwritten signature in black ink that reads "Steve DelBianco". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Steve DelBianco
Executive Director
NetChoice

cc: Members of the Committee

NetChoice is a coalition of trade associations and e-Commerce businesses who share the goal of promoting convenience, choice and commerce on the Net. More information about NetChoice can be found at www.netchoice.org